

## **REQUIREMENTS FOR “CATCH UP” STIPULATIONS IN CHAPTER 13 LIFT STAY PROCEEDINGS**

### **I. Substantive Provisions**

All catch up stipulations must include the following:

A. A statement from the debtor (or debtor's counsel) which describes how the debtor will make the catch up payments; regular mortgage payments and Chapter 13 payment during the cure period;

B. A provision which requires debtor (or debtor's counsel) to keep a record of all catch up and regular mortgage payments made during cure period and a record of date mailed. Address for mailing to be provided by creditor. [Failure to have such records will be grounds to lift stay in the event of a default];

C. Certification that debtor(s) is/are current on plan payments or have filed for a moratorium. If moratorium is contested, catch up stipulation will not be approved until moratorium order is entered (debtor must address adequate protection during that time period); and

D. A requirement that at the end of the cure period, the creditor file with the court and serve on debtor (and debtor's counsel), a statement which sets out the (1) outstanding principal balance; (2) remaining prepetition arrears; (3) the current escrow balance; and (4) the amount of any outstanding fees and costs. Failure to provide such an accounting may result in the imposition of sanctions against the creditor (or creditor's counsel).

### **II. Procedural Matters**

A. Pending lift stay motions will not be taken off calendar because a stipulation is pending.

B. Multiple continuances of lift stay proceedings to permit the parties to enter into a catch up stipulation will rarely be granted.

C. “Drop dead” default provisions will not be approved even during the cure period. In the event of a default during the cure period, mortgage services and lenders may put their MRS back on calendar for a preliminary hearing

(without paying a new fee). Post cure period default must be addressed by a new MRS.

Once a catch up stipulation is approved, a status hearing must be set by the movant within 30 days of the end of the cure period. If at the status hearing it appears that debtor has not performed the stipulation or that the creditor has failed to provide an accounting, appropriate orders will be entered, including, but not limited to: (1) possible dismissal of the Chapter 13, (2) lift stay order in favor of the creditor; or (3) sanctions order against the creditor.